

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1163 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed : YES  
to see the judgement?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?

4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

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DASHARATHJI NARSANGJI SOLANKI

Versus

JIVANJI BABUJI SOLANKI

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Appearance:

(MR SG SHAH) for Petitioner  
NOTICE SERVED BY DS for Respondent No. 2  
MR ARUN H MEHTA for Respondent No. 4

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CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 23/06/2000

ORAL JUDGEMENT

The present revision application has been filed  
by the original applicant, who had filed Motor Accident  
Claim Petition before Motor Accidents Claims Tribunal  
(Main), Mehsana for getting compensation as he suffered

injuries out of accident, which had taken place on 12.8.1994. It seems that the said application was preferred on 6.7.1996. The Motor Accident Claims Tribunal, Mehsana, by his order dated 6th July, 1996, however, rejected the said petition summarily on the ground that since the accident had occurred on 12.8.1994, the petition was required to be filed within six months in view of the provisions of Section 166(3) of the amended Motor Vehicles Act and, therefore, as the

by period of limitation and on that ground, the said application was summarily rejected by the learned Tribunal. The aforesaid order is impugned in the present revision application.

At the time of hearing of this revision, Mr.Y.N. Ravani, learned counsel for the petitioner, submitted that in view of the judgment of the Honourable Supreme Court as well as of this Court, this revision application is required to be allowed as there was no question of considering the limitation. The Honourable Supreme Court in the case of Dhanalal v. D.P. Vijayvargiya and others, (1996) 4 SCC 652 has held as under :-

"... 6. Before the scope of sub-section (3) of Section 166 of the Act is examined, it may be pointed out that the aforesaid sub-section (3) of Section 166 of the Act has been omitted by Section 53 of the Motor Vehicles (Amendment) Act, 1994 which came in force w.e.f. 14-11-1994. The effect of the Amending Act is that w.e.f. 14-11-1994 there is no limitation for filing claims before the Tribunal in respect of any accident. It can be said that Parliament realised the grave injustice and injury which was being caused to the heirs and legal representatives of the victims who died in accidents by rejecting their claim petitions only on ground of limitation. It is a matter of common knowledge that majority of the claimants for such compensation are ignorant about the period during which such claims should be preferred. After the death due to the accident of the breadearner of the family, in many cases such claimants are virtually on the streets. Even in cases where the victims escape death some of such victims are hospitalised for months if not for years. In the present case itself the

applicant claims that he met with the accident on 4-12-1990 and he was being treated as an indoor patient till 27.9.1991. According to us, in its wisdom, Parliament rightly thought that prescribing a period of limitation and restricting the power of the Tribunal to entertain any claim petition beyond the period of twelve months from the date of the accident was harsh, inequitable and in many cases was likely to cause injustice to the claimants. The present case is a glaring example where the appellant has been deprived by the order of the High Court from claiming the compensation because of delay of only four days in preferring the claim petition...."

This Court (Coram : N.N. Mathur, J.) in *Rameshbhai C. Patel v. Dashratbhai B. Solanki*, 1996(2) G.L.H. (U.J.) 22 has held that repeal of sub-section (3) of Section 166 of the Act is retrospective and benefit is available to all pending claim petitions also. In that view of the matter, the benefit of Section 166(3) of the amended Act is available to the petitioner in the present case also. In that view of the matter, this revision application is required to be allowed and order dated 6th July, 1996 passed by the Motor Accident Claims Tribunal (Main) Mehsana, which is impugned in this revision application, rejecting the claim petition of the present petitioner summarily is quashed and set aside. The application in question is restored to the file of the Motor Accident Claims Tribunal, Mehsana and the office of the Tribunal will give proper number to the said application, if number was not given at the time of filing the application. The aforesaid petition shall thereafter be disposed of on merits and in accordance with law. Since the claim petition is of the year 1996 and since considerable time has passed and since the petition is required to be proceeded further on merits, the Tribunal is directed to dispose of the same expeditiously and preferably within six months from the date of receipt of this Court's judgment. Rule is accordingly made absolute, with no order as to costs.

23rd June, 2000 ( P.B. Majmudar, J. )

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(apj)